

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 80-251-E - ORDER NO. 85-770

September 9, 1985

IN RE: Small Power Production and)	ORDER
Cogeneration Facilities - Im-)	DENYING PETITION FOR
plementation of Section 210)	RECONSIDERATION AND
of Public Utility Regulatory)	REHEARING
Policies Act of 1978 (PURPA).)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Petition for Reconsideration and Rehearing of a portion of Order No. 85-347 in the instant Docket filed by Union Camp Corporation (Union Camp). Specifically, Union Camp seeks rehearing of only one issue, to wit: Carolina Power and Light Company's (CP&L) proposal to change every two years the capacity credit paid a qualifying facility (QF) while at the same time requiring a minimum five-year contract in order to be eligible for a capacity payment. The Petition states that since the contract term does not match the term of the rate, the rate and Order No. 85-347 are contrary to Federal Energy Regulatory Commission ("FERC") regulations and will discourage cogeneration and small power production in South Carolina. The Petition also requests that the Commission require CP&L to offer a capacity credit that matches the contract term.

The Petition takes issue with the standard rate as contained in CP&L Schedule CSP-8B, which was approved by the Commission in Order No. 85-347. The energy and capacity credits that form a part of Schedule CSP-8B are subject to Commission review at

two-year intervals. Two years is the maximum interval between avoided cost determination filings as outlined in 18 C.F.R. Section 292.302(b). As part of Schedule CSP-8B, a five-year contract is required for the QF to receive the standard energy and capacity credits.

Union Camp provides four arguments in its Petition in support of its request that the Commission modify Order No. 85-347:

(1) Union Camp asserts that Order No. 85-347 and CP&L's Schedule CSP-8B are contrary to the FERC regulations implementing PURPA.

The Petition contains references to FERC Order No. 69, Docket No. RM79-55 (Order 69), 18 C.F.R. Sections 292.303(a) and (c), and 18 C.F.R. Sections 292.304(a)(1)(ii), (b)(5), (d), and (d)(2).

Of all the references cited, only 18 C.F.R. Section 292.304(a)(1)(ii) applies to "standard rates for purchases." The standard rate is the subject of the Petition and is discussed in 18 C.F.R. Section 292.304(c), which is not cited in the Petition. Paragraph (c)(3)(i) of 18 C.F.R. Section 292.304 states "[standard rates for purchases under this paragraph] shall be consistent with paragraphs (a) and (e)." Clearly, if FERC had intended that paragraphs (b), (c), (d), and (f) of 18 C.F.R. Section 292.304 applied to standard rates, paragraph (c)(3)(i) would have so stated. While the references cited do address the

right of a QF to fixed prices for energy and capacity for the duration of a contract term, it is clear that the references apply not to standard offers but to negotiated rates and contracts.

(2) Union Camp states that Order No. 85-347 is discriminatory against QFs as opposed to other power suppliers.

It is clear that QFs are intended to receive preference over other suppliers of power. Unlike the situation with QFs, public utilities are not required by the FERC to interconnect with each other nor are they required to purchase on an as-available basis the output of a neighboring utility. Public utilities also are not required to publish standard rates for the purchase of energy and capacity available to other utilities. Interchange agreements with other utilities are negotiated and approved by regulatory bodies having jurisdiction. Order No. 85-347 provides the same mechanism for QFs.

(3) Union Camp states that Order No. 85-347 is fundamentally unfair to QFs.

In the discussion of fairness, the Petition draws an analogy between the standard rate of Schedule CSP-8A and a five-year car loan in which the interest rate and the methodology for determining the interest rate can be changed every two years. There is absolutely no parallel or similarity between a published and approved standard offer to purchase QF output and the

situation surrounding the negotiated purchase agreement for an automobile. This analogy has no basis or merit.

(4) Finally, Union Camp asserts that Order No. 85-347 undermines the basic ability of QFs to obtain financing.

The Petition offers no direct support for this statement but does discuss the need of a steady revenue stream and the undermining of rate certainty by the Order No. 85-347. Financing will most likely be available only for projects which lie above some level of economic feasibility. A fixed, standard rate is just one of the many factors to be considered by lenders contemplating financing for QF projects. A project which has marginal economic feasibility will not attract financing simply as a result of a fixed, standard rate. Negotiation of rates and terms offers QFs more flexibility, and there is no reason why a negotiated agreement could not ensure a steady revenue stream and rate certainty for the QF developer while also ensuring fairness for the ratepayer.

Ordering Paragraph 10 of the Order No. 85-347 is specific in wording: "[s]ubject to review by this Commission each two years...." The Petition submitted by Union Camp indicates a basic misunderstanding of the Order when it states on page 3 "[t]he Order permits CP&L to change every two years the capacity credit paid to the QFs...." The Petition, as it references FERC Order 69, also indicates a misunderstanding of the application of the paragraphs referenced. The questions of unfairness and


financial difficulties are a matter of point of view, needs of the individual QF, needs of the utility, and the needs of the ratepayers. Good faith negotiations should resolve these issues.

Based upon our thorough review of the matters asserted in Union Camp's Petition and the discussion herein, the Commission is of the opinion that its findings as to CP&L's Schedule CSP-8B, approved in Order No. 85-347 and subject to Commission review at two-year intervals are fully supported in law, logic, and fact and should not be modified or vacated.

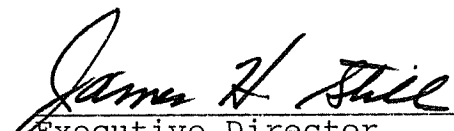
IT IS THEREFORE ORDERED:

1. That the relief requested in the Petition for Reconsideration and Rehearing of Order No. 85-347 filed by Union Camp Corporation, be, and hereby is, denied.
2. That the provisions of Order No. 85-347 shall remain in full force and effect as originally promulgated.
3. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)